

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

IN RE:

CHAPTER 7

**JAMES M. PAUL AND
CHARLENE F. PAUL,**

CASE NO. 9:13-BK-05229-FMD

Debtors. /

**BMO HARRIS BANK, N.A.'S
MOTION TO COMPEL ABANDONMENT**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within twenty-one (21) days from the date of service of this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 801 N. Florida Ave., Tampa, FL 33602, and serve a copy on the movant's attorney, RCO Legal, P.S., P.A., Alecia C. Daniel, Esq. 1587 Northeast Expressway, Atlanta, GA 30329, and any other appropriate persons.

If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW, BMO HARRIS BANK, N.A., its successors and assigns ("Secured Creditor"), by and through its undersigned counsel, and pursuant to Bankruptcy Rule 6007(b) respectfully moves this Court for an Order requiring the abandonment of property by the Trustee pursuant to 11 U.S.C. § 554(b). In support, Movant would show:

1. The Debtors filed a voluntary petition pursuant to Chapter 7 of the Bankruptcy Code on April 23, 2013.

2. Robert E. Tardif, Jr., (“the Trustee”), is the Trustee and a party in this action.

3. This is a contested proceeding within the meaning of Bankruptcy Rule 9014, and the Bankruptcy Court has jurisdiction over this matter.

4. Secured Creditor holds a security interest in the Debtors’ real property, located at 28311 Terrazza Lane, Naples, FL 34110, by virtue of a Mortgage, which is recorded in Official Records Instrument Number 2006000461859 of the Register of Deeds of Lee County, Florida. Said Mortgage secures a Note in the amount of \$1,000,000.00. A true and correct copy of the Mortgage, Note and Assignment of Mortgage are attached hereto as Exhibits A, B and C, respectively.

5. The aforementioned Mortgage gives Secured Creditor a first mortgage position on property legally described as:

LOT 35, MEDITERRA PARCEL 123, ACCORDING TO THE PLAT THEREOF, OF RECORD IN PLAT BOOK 73, PAGE(S) 5 AND 6, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

6. Debtors have defaulted under the terms of the contract by failing to pay the February 1, 2013, payment along with the payments since that date. The unpaid principal balance as of the filing of this motion is \$984,575.28 principal balance, with interest accruing at the rate of 3.63% per annum, plus other fees and cost advanced by the Mortgagee pursuant to the loan documents. Attached hereto as Exhibit “D” is an Affidavit in Support of Motion to Compel Abandonment.

7. According to the Debtors' Schedules, the market value of the Property is \$1,112,203.00.

8. The Property is burdensome and of inconsequential value to the bankruptcy estate.

WHEREFORE, BMO HARRIS BANK, N.A., its successors and assigns, prays for an Order:

1. Directing the Trustee to abandon all interest in the said Property pursuant to 11 U.S.C. § 554(b); and
2. Granting such other and further relief, general and specific, as may be just and proper.

DATED October 14, 2013.

RCO Legal, P.S., P.A.

/s/ Alecia C. Daniel
Alecia C. Daniel, FL Bar No. 36955
Attorney for Secured Creditor
1587 Northeast Expressway
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CERTIFICATE OF SERVICE

I, Alecia C. Daniel, hereby certify that on October 14, 2013, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants, and that a true and correct copy was mailed by regular mail, with appropriate postage affixed at the below addresses, or via electronic transmission, pursuant to this Court's local rules and the Federal Rules of Bankruptcy Procedure:

Via First Class Mail:

James M Paul
25634 South Kensington Lane
Monee, IL 60449

Charlene F. Paul
25634 South Kensington Lane
Monee, IL

Via ECF notice only:

Richard J. Hollander
Miller & Hollander
2430 Shadowlawn Drive, Ste. 18
Naples, FL 34112

Robert E. Tardif, Jr.
P.O. Box 2140
Fort Myers, FL 33902

Office of the United States Trustee
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602

RCO Legal, P.S., P.A.

/s/ Alecia C. Daniel

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